

Panaji, 19th June, 1975 (Jyaistha 29, 1897)

SERIES I No. 12

OFFICIAL GAZETTE



GOVERNMENT OF GOA, DAMAN AND DIU

Law and Judiciary Department

Notification

LD/178/75

The following Central Acts which were recently passed by the Parliament and assented to by the President of India are hereby published for general information of the public.

M. S. Borkar, Under Secretary (Law).

Panaji, 21st January, 1975.

The Representation of the People (Amendment) Act, 1974

AN
ACT

further to amend the Representation of the People Act, 1951.

Be it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

1. Short title and commencement.—(1) This Act may be called the Representation of the People (Amendment) Act, 1974.

(2) It shall be deemed to have come into force on the 19th day of October, 1974.

2. Amendment of Act 43 of 1951.—In section 77 of the Representation of the People Act, 1951, in sub-section (1), the following *Explanations* shall be inserted at the end, namely:—

Explanation 1.—Notwithstanding any judgment, order or decision of any court to the contrary, any expenditure incurred or authorized in connection with the election of a candidate by a political party or by any other association or body of persons or by any individual (other than the candidate or his election agent) shall not be deemed to be, and shall not ever be deemed to have been, expenditure in connection with the election incurred or authorized by the candidate or by his election agent for the purposes of this sub-section:

Provided that nothing contained in this *Explanation* shall affect—

(a) any judgment, order or decision of the Supreme Court whereby the election of a candidate to the

House of the People or to the Legislative Assembly of a State has been declared void or set aside before the commencement of the Representation of the People (Amendment) Ordinance, 1974;

13 of 1974.

(b) any judgment, order or decision of a High Court whereby the election of any such candidate has been declared void or set aside before the commencement of the said Ordinance if no appeal has been preferred to the Supreme Court against such judgment, order or decision of the High Court before such commencement and the period of limitation for filing such appeal has expired before such commencement.

Explanation 2.—For the purposes of *Explanation 1*, “political party” shall have the same meaning as in the Election Symbols (Reservation and Allotment) Order, 1968, as for the time being in force.

3. Repeal.—The Representation of the People (Amendment) Ordinance, 1974, is hereby repealed.

13 of 1974.

The Indian Works of Defence (Amendment) Act, 1974

AN
ACT

further to amend the Indian Works of Defence Act, 1903.

Be it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

1. Short title.—This Act may be called the Indian Works of Defence (Amendment) Act, 1974.

2. Amendment of section 1.—In section 1 of the Indian Works of Defence Act, 1903 (hereinafter referred to as the principal Act), in sub-section (1), the word “Indian” shall be omitted.

7 of 1903.

3. Amendment of section 37.—In section 37 of the principal Act, for the words and brackets “or (within the towns of Calcutta, Madras and Bombay) to the Commissioner of Police”, the words and brackets “or (within any area for which a Commissioner of Police has been appointed) to the Commissioner of Police” shall be substituted.

4. Amendment of section 44.—In section 44 of the principal Act, —

(i) in sub-section (1), for the words "The Central Government may make rules", the words "The Central Government may, by notification in the Official Gazette, make rules" shall be substituted;

(ii) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."

The Reserve Bank of India (Amendment) Act, 1974

AN
ACT

further to amend the Reserve Bank of India Act, 1934

Be it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

1. Short title.—This Act may be called the Reserve Bank of India (Amendment) Act, 1974.

2. Amendment of section 2.—In section 2 of the Reserve Bank of India Act, 1934 (hereafter in this Act referred to as 2 of 1934 the principal Act), —

(i) for clause (a), the following clause shall be substituted, namely:—

"(a) "agricultural operations" includes animal husbandry, dairy and poultry farming, pisciculture and other allied activities, whether or not undertaken jointly with agricultural operations;"

(ii) after clause (a), the following clause shall be inserted, namely:—

"(a) "Bank for International Settlements" means the body corporate established with the said name under the law of Switzerland in pursuance of an agreement dated the 20th January, 1930, signed at The Hague;"

(iii) after clause (c), the following clauses shall be inserted, namely:—

"(ca) "International Development Association" means the "Association" referred to in the International Development Association (Status, Immunities and Privileges) Act, 1960;

32 of 1960.

"(cb) "International Finance Corporation" means the "Corporation" referred to in the International Fi-

nance Corporation (Status, Immunities and Privileges) Act, 1958; 42 of 1958.

(cc) "International Monetary Fund" and "International Bank for Reconstruction and Development" mean respectively the "International Fund" and the "International Bank", referred to in the International Monetary Fund and Bank Act, 1945;"

(iv) after clause (ci), the following clause shall be inserted, namely:—

"(cia) "pisciculture" includes the development of fisheries, both inland and marine, catching of fish and all other activities connected therewith or incidental thereto;"

3. Substitution of Banking Regulation Act, 1949, in place of Banking Companies Act, 1949.—In the principal Act, for the words and figures "Banking Companies Act, 1949", wherever they occur, the words and figures "Banking Regulation Act, 1949" shall be substituted.

4. Amendment of section 8.—In section 8 of the principal Act, in sub-section (4), after the words "for a period of four years", the words "and thereafter until his successor shall have been nominated" shall be inserted.

5. Amendment of section 9.—In section 9 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) Every member of a Local Board shall hold office for a term of four years and thereafter until his successor shall have been appointed and shall be eligible for re-appointment."

6. Amendment of section 17.—In section 17 of the principal Act,—

(i) in clause (2),—

(A) in sub-clause (a), after the words "or a State cooperative bank", the words "or any financial institution, which is predominantly engaged in the acceptance or discounting of bills of exchange and promissory notes and which is approved by the Bank in this behalf" shall be inserted;

(B) in sub-clause (b),—

(a) after the words "or a State co-operative bank", the words "or any financial institution, which is predominantly engaged in the acceptance or discounting of bills of exchange and promissory notes and which is approved by the Bank in this behalf" shall be inserted;

(b) for the words "financing seasonal agricultural operations", the words "financing agricultural operations" shall be substituted;

(C) in sub-clause (bb), after the words "or a State Financial Corporation", the words "or any financial institution, which is predominantly engaged in the acceptance or discounting of bills of exchange and promissory notes and which is approved by the Bank in this behalf" shall be inserted;

(ii) after clause (3A), the following clause shall be inserted, namely:—

"(3B) the making to any scheduled bank or State co-operative bank of loans and advances

repayable on demand or on the expiry of fixed periods not exceeding one hundred and eighty days against promissory notes of such bank:

Provided that the borrowing bank furnishes a declaration in writing to the effect that it has made loans and advances for *bona fide* commercial or trade transactions or for financing agricultural operations or the marketing of crops or for other agricultural purposes as set out in the declaration and the said declaration includes such other particulars as may be required by the Bank;

(iii) in sub-clause (d) of clause (4), for the words "financing seasonal agricultural operations", the words "financing agricultural operations" shall be substituted;

(iv) for the proviso to clause (4A), the following proviso shall be substituted, namely:—

"Provided that the previous approval of the State Government shall be obtained for the borrowing by the State Financial Corporation and the amount of loans and advances granted to that Corporation under this clause shall not, at any time, exceed in the aggregate ninety per cent of the paid-up share capital thereof."

(v) in clause (11),—

(a) after the words and figures "the Industrial Finance Corporation Act, 1948", the words "or any other body corporate which is established or constituted by or under any other law" shall be inserted, and, for the words "any such person", the words "any such person or authority" shall be substituted;

(b) in sub-clause (f), the words "in respect of the aforesaid Corporation," and the word "its" shall be omitted.

7. Amendment of section 18.—In section 18 of the principal Act,—

(a) in sub-section (1),—

(i) in the opening paragraph, the brackets and figure "(1)" shall be omitted;

(ii) for the words "under this sub-section", the words "under this section" shall be substituted;

(iii) the words, brackets, letters and figures "sub-clauses (a) and (b) of clause (2) or sub-clause (a) or (b) of clause (3) or clause (4) of" shall be omitted;

(b) for clause (1), the following clause shall be substituted, namely:—

"(1) purchase, sell or discount any bill of exchange or promissory note though such bill or promissory note is not eligible for purchase or discount by the Bank under that section; or";

(c) for clause (3), the following clause shall be substituted, namely:—

"(3) make loans or advances to—

(a) a State co-operative bank, or

(b) on the recommendation of a State co-operative bank, to a co-operative society registered within the area in which the State co-operative bank operates, or

(c) any other person,

repayable on demand or on the expiry of fixed periods, not exceeding ninety days, on such terms and conditions as the Bank may consider to be sufficient."

(d) sub-section (2) shall be omitted.

8. Insertion of new section 18A.—After section 18 of the principal Act, the following section shall be inserted, namely:—

"18A. Validity of loan or advance not to be questioned.—Notwithstanding anything to the contrary contained in any other law for the time being in force,—

(a) the validity of any loan or advance granted by the Bank in pursuance of the provisions of this Act shall not be called in question merely on the ground of non-compliance with the requirements of such other law as aforesaid or of any resolution, contract, memorandum, articles of association or other instrument:

Provided that nothing in this clause shall render valid any loan or advance obtained by any company or co-operative society where such company or co-operative society is not empowered by its memorandum to obtain loans or advances;

(b) where a loan or advance has been granted under clause (3A) or under clause (3B) of section 17 or a loan or advance granted under clause (3) of section 18 by the Bank to any person has been applied by such person, wholly or in part, in making a loan or advance to any borrower, any sum received—

(i) by the borrowing bank on account of bills of exchange in respect of which the declaration under clause (i) of the proviso to clause (3A) of section 17 has been furnished or in repayment or realisation of the outstanding loans and advances referred to in clause (ii) of the said proviso or in the proviso to clause (3B) of the said section, or

(ii) by the borrowing bank or any other person in repayment or realisation of loans and advances granted to a borrower out of funds obtained by it or by him from the Bank under section 18,

shall be utilised only for the repayment by the borrowing bank or other person, as the case may be, of the amounts due to be repaid by it or by him to the Bank, and shall be held by it or by him in trust for the Bank, until such time as the amounts are so repaid."

9. Omission of section 32.—Section 32 of the principal Act shall be omitted.

10. Amendment of section 33.—In section 33 of the principal Act,—

(i) in sub-section (3),—

(a) for the word, brackets and letter "sub-clause (b)", the words, brackets and letters "sub-clause (b) or sub-clause (bb)" shall be substituted;

(b) the words, brackets and figure "of sub-section (1)" shall be omitted;

(ii) for sub-section (6), the following sub-section shall be substituted, namely:—

“(6) For the purposes of this section, the foreign securities which may be held as part of the assets shall be—

(i) securities of the following kinds payable in the currency of any foreign country which is a member of the International Monetary Fund, namely:—

(a) balances with the bank which is the principal currency authority of that foreign country and any other balances or securities in foreign currency maintained with or issued by the International Monetary Fund, the International Bank for Reconstruction and Development, the International Development Association or the International Finance Corporation or the Bank for International Settlements or any commercial bank notified by the Central Government in this behalf, provided that they are repayable within a period of five years;

(b) bills of exchange bearing two or more good signatures and drawn on and payable at any place in that foreign country and having a maturity not exceeding ninety days; and

(c) Government securities of that foreign country maturing within five years;

(ii) any drawing rights representing a liability of the International Monetary Fund.”.

11. Amendment of section 42.—In section 42 of the principal Act,—

(A) in the *Explanation* below sub-section (1), in clause (c),—

(a) in sub-clause (ii), the words “or from the State Bank or from any other bank notified by the Central Government in this behalf, and” shall be omitted;

(b) in sub-clause (iii), the words “required to be” shall be omitted;

(c) after sub-clause (iii), the following sub-clause shall be inserted, namely:—

“(iv) in the case of a State co-operative bank, which has granted an advance against any balance maintained with it, such balance to the extent of the amount outstanding in respect of such advance;”;

(d) after clause (c), the following clauses shall be inserted, namely:—

“(d) the aggregate of the “liabilities” of a scheduled bank which is not a State co-operative bank, to,—

(i) the State Bank;

(ii) a subsidiary bank as defined in section 2 of the State Bank of India (Subsidiary Banks) Act, 1959; 38 of 1959.

(iii) a corresponding new bank constituted by section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970; 5 of 1970.

(iv) a banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949; 10 of 1949.

(v) a co-operative bank; or

(vi) any other financial institution notified by the Central Government in this behalf,

shall be reduced by the aggregate of the liabilities of all such banks and institutions to the scheduled bank;

(e) the aggregate of the “liabilities” of a scheduled bank which is a State co-operative bank, to,—

(i) the State Bank;

(ii) a subsidiary bank as defined in section 2 of the State Bank of India (Subsidiary Banks) Act, 1959; 38 of 1959.

(iii) a corresponding new bank constituted by section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970; 5 of 1970.

(iv) a banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949, or 10 of 1949.

(v) any other financial institution notified by the Central Government in this behalf,

shall be reduced by the aggregate of the liabilities of all such banks and institutions to the State co-operative bank;’;

(B) in sub-section (2),—

(a) in clause (a), for the words “other than the State Bank and any other bank notified by the Central Government in this behalf”, the words “classifying them into demand and time liabilities” shall be substituted;

(b) clause (aa) shall be omitted;

(c) in the first proviso, for the words “Provided that”, the following shall be substituted, namely:—

“Provided that the Bank may, by notification in the Gazette of India, delete or modify or add to any of the particulars specified in the foregoing clauses:

Provided further that”;

(d) in the second proviso, for the words “Provided further that where the Bank is satisfied”, the words “Provided also that where the Bank is satisfied” shall be substituted.

12. Substitution of section 43.—For section 43 of the principal Act, the following section shall be substituted, namely:—

“43. **Publication of consolidated statement by the Bank.**—The Bank shall cause to be published each week a consolidated statement showing the aggregate liabilities and assets of all the scheduled banks together, based on the returns and information received under this Act or any other law for the time being in force.”.

13. Amendment of section 45A. — In section 45A of the principal Act, —

(A) in clause (a), for the words "or any other banking or financial institution notified by the Central Government in this behalf", the words, brackets and figures "any subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959, any corresponding new bank constituted by section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, and any other financial institution notified by the Central Government in this behalf" shall be substituted;

38 of 1959.

5 of 1970.

(B) in clause (c), —

(i) in sub-clause (ii), after the words "taken from any borrower", the words "or class of borrowers" shall be inserted, and, for the words "granted to him; and", the words "granted to him or to such class;" shall be substituted;

(ii) in sub-clause (iii), after the words "any of its customers", the words "or any class of its customers;" shall be inserted;

(iii) after sub-clause (iii), the following sub-clauses shall be inserted, namely: —

"(iv) the means, antecedents, history of financial transactions and the creditworthiness of any borrower or class of borrowers;

(v) any other information which the Bank may consider to be relevant for the more orderly regulation of credit or credit policy."

14. Amendment of section 45E. — In section 45E of the principal Act, in sub-section (2), after clause (b), the following clause shall be inserted, namely: —

"(c) the disclosure or publication by the banking company or by the Bank of any credit information to any other banking company or in accordance with the practice and usage customary among bankers or as permitted or required under any other law:

Provided that any credit information received by a banking company under this clause shall not be published except in accordance with the practice and usage customary among bankers or as permitted or required under any other law."

15. Omission of section 45G. — Section 45G of the principal Act shall be omitted.

16. Amendment of section 45H. — In section 45H of the principal Act, in the proviso, for the words "Madras Industrial Investment Corporation Limited", the words "Tamil Nadu Industrial Investment Corporation Limited" shall be substituted.

17. Amendment of section 45I. — In section 45I of the principal Act, —

(i) after clause (b), the following clause shall be inserted, namely: —

"(bb) "deposit" shall include, and shall be deemed always to have included, any money

received by a non-banking institution by way of deposit, or loan or in any other form, but shall not include amounts raised, by way of share capital, or contributed as capital by partners of a firm;";

(ii) for clause (c) including the *Explanation*, the following shall be substituted, namely: —

"(c) "financial institution" means any non-banking institution which carries on as its business or part of its business any of the following activities, namely: —

(i) the financing, whether by way of making loans or advances or otherwise, of any activity other than its own;

(ii) the acquisition of shares, stock, bonds, debentures or securities issued by a Government or local authority or other marketable securities of a like nature;

(iii) letting or delivering of any goods to a hirer under a hire-purchase agreement as defined in clause (c) of section 2 of the Hire-Purchase Act, 1972;

26 of 1972.

(iv) the carrying on of any class of insurance business;

(v) managing, conducting or supervising, as foreman, agent or in any other capacity, of chits or kuries as defined in any law which is for the time being in force in any State, or any business, which is similar thereto;

(vi) collecting, for any purpose or under any scheme or arrangement by whatever name called, monies in lumpsum or otherwise, by way of subscriptions or by sale of units, or other instruments or in any other manner and awarding prizes or gifts, whether in cash or kind, or disbursing monies in any other way, to persons from whom monies are collected or to any other person,

but does not include any institution, which, —

(i) is an industrial concern as defined in clause (c) of section 2 of the Industrial Development Bank of India Act, 1964, or

18 of 1964.

(ii) carries on as its principal business, —

(a) agricultural operations; or

(b) the purchase or sale of any goods (other than securities) or the providing of any services; or

(c) the purchase, construction or sale of immovable property, so however, that no portion of the income of the institution is derived from the financing of purchases, constructions or sales of immovable property by other persons;."

18. Amendment of section 45K. — In section 45K of the principal Act, sub-section (5) shall be omitted.

19. Insertion of new section 45MA. — After section 45M of the principal Act, the following section shall be inserted, namely: —

"45MA. Powers and duties of auditors. — (1) It shall be the duty of an auditor of a non-banking

institution to inquire whether or not the non-banking institution has furnished to the Bank such statements, information or particulars relating to or connected with deposits received by it, as are required to be furnished under this Chapter, and the auditor shall, except where he is satisfied on such inquiry that the non-banking institution has furnished such statements, information or particulars, make a report to the Bank giving the aggregate amount of such deposits held by the non-banking institution.

(2) Where, in the case of a non-banking institution, being a company, the auditor has made, or intends to make, a report to the Bank under sub-section (1), he shall include in his report under sub-section (2) of section 227 of the Companies Act, 1956, the contents of the report which he has made, or intends to make, to the Bank." 1 of 1956.

20. Amendment of section 45N.—In section 45N of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) The Bank may, at any time, cause an inspection to be made by one or more of its officers or employees or other persons (hereafter in this section referred to as the inspecting authority)—

(i) of any non-banking institution, including a financial institution, for the purposes of verifying the correctness or completeness of any statement, information or particulars furnished to the Bank or for the purpose of obtaining any information or particulars which the non-banking institution has failed to furnish on being called upon to do so; or

(ii) of any non-banking institution being a financial institution, if the Bank considers it necessary or expedient to inspect that institution."

21. Insertion of new section 45NA.—After section 45N of the principal Act, the following section shall be inserted, namely:—

"45NA. Deposits not to be solicited by unauthorised persons.—No person shall solicit on behalf of any non-banking institution either by publishing or causing to be published any prospectus or advertisement or in any other manner deposits of money from the public unless—

(a) he has been authorised in writing by the said non-banking institution to do so and specifies the name of the institution which has so authorised him, and

(b) the prospectus or advertisement complies with any order made by the Bank under section 45J and with any other provision of law for the time being in force, applicable to the publication of such prospectus or advertisement."

22. Omission of sections 45O and 45P.—Sections 45O and 45P of the principal Act shall be omitted.

23. Amendment of section 46A.—In section 46A of the principal Act, in sub-section (2),—

(i) in clause (b), for the words "agricultural purposes or for such other purposes connected

with the agricultural activities as the Central Board may, from time to time, by regulation or otherwise, determine", the words "agricultural and allied purposes including purposes of animal husbandry or pisciculture or such other purposes connected with agricultural operations as the Bank may, from time to time, determine" shall be substituted;

(ii) after each of the provisos to clause (b) and clause (c), the following further proviso shall be added to each of the said clauses, namely:—

"Provided further that such guarantee may be waived by the Bank if other security to the satisfaction of the Bank is available, or if, for reasons to be recorded by it in writing, the Bank is satisfied that a guarantee or other security is not necessary;"

24. Amendment of section 58.—In section 58 of the principal Act, sub-section (3) shall be renumbered as sub-section (5) thereof and before sub-section (5), as so re-numbered, the following sub-sections shall be inserted, namely:—

"(3) Any regulation made under this section shall have effect from such earlier or later date as may be specified in the regulation.

(4) Every regulation shall, as soon as may be after it is made by the Central Board, be forwarded to the Central Government and that Government shall cause a copy of the same to be laid before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation, or both Houses agree that the regulation should not be made, the regulation shall, thereafter, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation."

25. Insertion of new section 58A.—After section 58 of the principal Act, the following section shall be inserted, namely:—

"58A. Protection of action taken in good faith.—

(1) No suit, prosecution or other legal proceeding shall lie against the Central Government or the Bank or any other person in respect of anything which is in good faith done or intended to be done under this Act or in pursuance of any order, regulation or direction made or given thereunder.

(2) No suit or other legal proceeding shall lie against the Central Government or the Bank for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act or in pursuance of any order, regulation or direction made or given thereunder."

26. Insertion of new sections 58B, 58C, 58D, 58E and 58F.—After section 58A of the Principal Act,

the following Chapter and sections shall be inserted, namely:—

CHAPTER V

Penalties

58B. Penalties.—(1) Whoever in any application, declaration, return, statement, information or particulars made, required or furnished by or under or for the purposes of any provisions of this Act, or any order, regulation or direction made or given thereunder or in any prospectus or advertisement issued for or in connection with the invitation by any person, of deposits of money from the public wilfully makes a statement which is false in any material particular knowing it to be false or wilfully omits to make a material statement shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

(2) If any person fails to produce any book, account or other document or to furnish any statement, information or particulars which, under this Act or any order, regulation or direction made or given thereunder, it is his duty to produce or furnish or to answer any question put to him in pursuance of the provisions of this Act or of any order, regulation or direction made or given thereunder, he shall be punishable with fine which may extend to two thousand rupees in respect of each offence and if he persists in such failure or refusal, with further fine which may extend to one hundred rupees for every day, after the first during which the offence continues.

(3) If any person contravenes the provisions of section 31, he shall be punishable with fine which may extend to the amount of the bill of exchange, hundi, promissory note or engagement for payment of money in respect whereof the offence is committed.

(4) If any person discloses any credit information, the disclosure of which is prohibited under section 45E, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(5) If any person—

(a) receives any deposit in contravention of any direction given or order made under Chapter IIIB; or

(b) issues any prospectus or advertisement otherwise than in accordance with section 45NA or any order made under section 45J, as the case may be,

he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine which may extend,—

(i) in the case of a contravention falling under clause (a), to twice the amount of the deposit received; and

(ii) in the case of a contravention falling under clause (b), to twice the amount of the deposit called for by the prospectus or advertisement.

(6) If any other provision of this Act is contravened or if any default is made in complying with any other requirement of this Act or of any

order, regulation or direction made or given or condition imposed thereunder, any person guilty of such contravention or default shall be punishable with fine which may extend to two thousand rupees and where a contravention or default is a continuing one, with further fine which may extend to one hundred rupees for every day, after the first, during which the contravention or default continues.

58C. Offences by companies.—(1) Where a person committing a contravention or default referred to in section 58B is a company, every person who, at the time the contravention or default was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention or default and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the contravention or default was committed without his knowledge or that he had exercised all due diligence to prevent the contravention or default.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the same was committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary, or other officer or employee of the company, such director, manager, secretary, other officer or employee shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation 1.—Any offence punishable under this Act shall be deemed to have been committed at the place where the registered office or the principal place of business, as the case may be, in India, of the company is situated.

Explanation 2.—For the purpose of this section,—

(a) “a company” means any body corporate and includes a corporation, a non-banking institution, a firm, a co-operative society or other association of individuals;

(b) “director”, in relation to a firm, means a partner in the firm.

58D. Application of section 58B barred.—Nothing contained in section 58B shall apply to, or in respect of, any matter dealt with in section 42.

58E. Cognizance of offences.—(1) No court shall take cognizance of any offence punishable under this Act except upon a complaint in writing made by an officer of the Bank, generally or specially authorised in writing in this behalf by the Bank, and no court other than that of a Metropolitan Magistrate or a Judicial Magistrate of the first class or a court superior thereto shall try any such offence.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, a Magistrate may, if he sees 2 of 1974.

reason so to do, dispense with the personal attendance of the officer of the Bank filing the complaint, but the Magistrate may in his discretion, at any stage of the proceedings, direct the personal attendance of the complainant.

58F. Application of fine.—A court imposing any fine under this Act may direct that the whole or any part thereof shall be applied in, or towards payment of, the costs of the proceedings.

The Navy (Amendment) Act, 1974

AN ACT

further to amend the Navy Act, 1957

Be it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

1. Short title.—This Act may be called the Navy (Amendment) Act, 1974.

2. Substitution of "seaman" by "sailor".—Throughout the Navy Act, 1957 62 of 1957. (hereinafter referred to as the principal Act), for the word "seaman", wherever it occurs, the word "sailor" shall be substituted, and such other consequential amendments as the rules of grammar may require shall also be made.

3. Amendment of section 3.—In section 3 of the principal Act,—

(a) after clause (12), the following clause shall be inserted, namely:—

“(12A) “naval establishment” means an establishment belonging to, or under the control of, the Indian Navy whether within or without India;”;

(b) for clause (17), the following clause shall be substituted, namely:—

“(17) “petty officer” means a sailor rated as such and includes, a chief petty officer and a master chief petty officer;”.

4. Amendment of section 7.—In sub-section (2) of section 7 of the principal Act, after the words, brackets and figures “sub-section (3) of section 93”, the words “or in such cases and subject to such conditions as may be prescribed” shall be inserted.

5. Amendment of section 15.—In sub-section (2) of section 15 of the principal Act, before the word “discharge” in both the places where it occurs, the words “dismiss or” shall be inserted.

6. Insertion of new sections 19A and 19B.—In Chapter V of the principal Act, after section 19, the following sections shall be inserted, namely:—

“19A. Reinstatement of persons belonging to the Indian Naval Reserve Forces on termination of period of training or actual service with the Indian Navy.—(1) If a person belonging to the Indian Naval Reserve Forces is, during the period

of his employment under an employer called up for training or called up into actual service with the Indian Navy in pursuance of his liability under any regulations made under this Act, it shall be the duty of every such employer to reinstate the person in his employment on the termination of the period of his training or service with the Indian Navy in an occupation and under conditions not less favourable to him than those which would have been applicable to him had his employment not been so interrupted:

Provided that if the employer refuses to reinstate such person or denies his liability to reinstate such person, or if for any reason reinstatement of such person is represented by the employer to be impracticable, either party may refer the matter to the authority prescribed in this behalf and that authority shall, after considering all matters which may be put before it and after making such further inquiry into the matter as may be prescribed, pass an order—

(a) exempting the employer from the provisions of this section, or

(b) requiring the employer to re-employ such person on such terms as the authority thinks suitable, or

(c) requiring the employer to pay to such person by way of compensation for failure or inability to re-employ, a sum not exceeding an amount equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer.

(2) If any employer fails to obey the order of any such authority as is referred to in the proviso to sub-section (1), he shall be punishable with fine which may extend to one thousand rupees, and the court by which an employer is convicted under this sub-section shall order him (if he has not already been so required by the said authority) to pay to the person whom he has failed to re-employ a sum equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer, and any amount so required to be paid either by the said authority or by the court shall be recoverable as if it were a fine imposed by such court.

(3) In any proceeding under this section it shall be a defence for an employer to prove that the person formerly employed did not apply to the employer for reinstatement within a period of two months from the termination of the period of his training or service with the Indian Navy.

(4) The duty imposed by sub-section (1) upon an employer to reinstate in his employment a person such as is described in that sub-section shall attach to an employer who, before such person is actually called up for training, or called up into actual service with the Indian Navy, terminates his employment in circumstances such as to indicate an intention to evade the duty imposed by that sub-section, and such intention shall be presumed until the contrary is proved, if the termination takes place after the issue of orders calling him up for training or service with the Indian Navy under this Act.

19B. Preservation of service rights belonging to the Indian Naval Reserve Forces when called up

for training or actual service with the Indian Navy. When any person belonging to the Indian Naval Reserve Forces and called up for training or called up into actual service with the Indian Navy in pursuance of his liability under any regulations made under this Act, has any rights under any provident fund or superannuation fund or other scheme for the benefit of employees maintained in connection with the employment he relinquishes, he shall continue, so long as he is engaged in training, or service with the Indian Navy and if he is reinstated, until such reinstatement under the provisions of this Act, to have in respect of such fund or scheme such rights as may be prescribed."

7. Substitution of new sections for sections 34 to 37.—For sections 34 to 37 of the principal Act, the following section shall be substituted, namely:—

"34. Misconduct by officers or persons in command.—Every flag officer, captain or other person subject to naval law who, being in command of any ship, vessel or aircraft of the Indian Navy, or any naval establishment—

(a) fails to use his utmost exertions to bring into action any such ship, vessel or aircraft which it is his duty to bring into action; or

(b) surrenders any such ship, vessel or aircraft to the enemy when it is capable of being successfully defended or destroyed; or

(c) fails to pursue the enemy whom it is his duty to pursue or to assist to the utmost of his ability any friend whom it is his duty to assist; or

(d) in the course of any action by or against the enemy improperly withdraws from the action or from his station or fails in his own person and according to his rank to encourage the persons under his command to fight courageously; or

(e) surrenders any such naval establishment or any part of such an establishment to the enemy when it is capable of being successfully defended or when it is his duty to cause it to be destroyed,

shall,—

(a) if such act is committed with intent to assist the enemy or from cowardice, be punished with death or such other punishment as is hereinafter mentioned; and

(b) in any other case, be punished with imprisonment for a term which may extend to seven years or such other punishment as is hereinafter mentioned.

35. Misconduct by persons other than those in command.—Every person subject to naval law who, not being in command of any naval establishment or any ship, vessel or aircraft of the Indian Navy, fails when ordered to prepare for action by or against the enemy, or during any such action, to use his utmost exertions to carry the lawful orders of his superior officers into execution shall,—

(a) if such act is committed with intent to assist the enemy, be punished with death or such other punishment as is hereinafter mentioned; and

(b) in any other case, be punished with imprisonment for a term which may extend to seven years or such other punishment as is hereinafter mentioned.

36. Delaying or discouraging action or service commanded.—Every person subject to naval law who wilfully delays or discourages upon any pretext whatsoever, any action or service which has been commanded on the part of the Navy, regular Army, or Air Force or of any forces co-operating therewith shall,—

(a) if such act is committed with intent to assist the enemy, be punished with death or such other punishment as is hereinafter mentioned; and

(b) in any other case, be punished with imprisonment which may extend to seven years or such other punishment as is hereinafter mentioned.

37. Penalty for disobedience in action.—Every person subject to naval law who, being in the presence or vicinity of the enemy or having been ordered to be prepared for action by or against the enemy—

(a) deserts his post; or

(b) sleeps upon his watch,

shall be punished with death or such other punishment as is hereinafter mentioned."

8. Amendment of section 41.—In section 41 of the principal Act, for clause (c), the following clause shall be substituted, namely:—

"(c) fails to perform or negligently performs the duty imposed on him; or"

9. Substitution of new section for section 42.—For section 42 of the principal Act, the following section shall be substituted, namely:—

"42. Mutiny defined.—Mutiny means any assembly or combination of two or more persons subject to naval law, the Army Act, 1950, or Air Force Act, 1950, or between persons two at least of whom are subject to naval law or any such Act,—

46 of 1950.

45 of 1950.

(a) to overthrow or resist lawful authority in the Navy, regular Army or Air Force or any part of any one or more of them or any forces co-operating therewith or any part thereof; or

(b) to disobey such authority in such circumstances as to make the disobedience subversive of discipline or with the object of avoiding any duty or service against, or in connection with operations against, the enemy; or

(c) to show contempt to such authority in such circumstances as to make such conduct subversive of discipline; or

(d) to impede the performance of any duty or service in the Navy, regular Army or Air Force or any part of any one or more of them or any forces co-operating therewith or any part thereof."

10. Amendment of section 43.—In section 43 of the principal Act, in clause (e), after the words "to suppress", the words "or prevent" shall be inserted.

11. Amendment of section 51.—In section 51 of the principal Act, after the words “place of duty”, the words “or any place where he is required to be” shall be inserted.

12. Amendment of section 52.—Section 52 of the principal Act shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-section shall be inserted namely:—

“(2) For the purpose of sub-section (1), a person shall be deemed to be guilty of drunkenness if, owing to the influence of alcohol or any drug whether alone or in combination with any other circumstances, he is unfit to be entrusted with his duty or with any duty which he may be called upon to perform or behaves in a disorderly manner likely to bring discredit to the naval service.”.

13. Amendment of section 55.—In sub-section (1) of section 55 of the principal Act, for the word “designedly”, the word “wilfully” shall be substituted.

14. Insertion of new sections 55A, 55B, 55C and 55D.—After section 55 of the principal Act, the following sections shall be inserted, namely:—

“55A. Dangerous unauthorised flying.—Every person subject to naval law, who is guilty of any act or neglect in flying or in the use of any aircraft of the Indian Navy or in relation to any such aircraft or material, which causes or is likely to cause loss of life or bodily injury to any person shall,—

(a) if he acts wilfully or with wilful neglect, be punished with imprisonment for a term which may extend to fourteen years; and

(b) in any other case, be punished with imprisonment for a term which may extend to five years or such other punishment as is hereinafter mentioned.

55B. Inaccurate certificate.—Every person subject to naval law who signs any certificate in relation to an aircraft or aircraft material belonging to or in the service of the Government without ensuring the accuracy thereof, shall be punished with imprisonment for a term which may extend to two years or such other punishment as is hereinafter mentioned.

55C. Low flying and annoyance by flying.—Every person subject to naval law being the pilot of an aircraft of the Indian Navy, who—

(a) flies it at a height less than the minimum height authorised by his commanding officer or appropriate service authority except while taking off or landing, or

(b) flies it so as to cause or likely to cause unnecessary annoyance to any person,

shall be punished with imprisonment for a term which may extend to two years or such other punishment as is hereinafter mentioned.

55D. Disobedience of lawful command of captain of an aircraft.—Every person subject to naval law, who, while he is in an aircraft belonging to or in the use of the Government, disobeys any

lawful command given by the captain of the aircraft, whether such captain is subject to naval law or not, in relation to all matters relating to flying or handling of the aircraft or affecting the safety thereof, shall be punished with imprisonment for a term which may extend to fourteen years or such other punishment as is hereinafter mentioned.”.

15. Amendment of section 73.—In section 73 of the principal Act, after the words “Indian Naval Reserve Forces”, the words “and every person belonging to any auxiliary forces raised under this Act” shall be inserted.

16. Amendment of section 94.—In section 94 of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely:—

“(5) The commanding officer of a training ship or the officer-in-charge of a naval academy may impose on any subordinate officer whilst under training such minor punishments, not higher than the punishment of severe reprimand or reprimand, as may, from time to time, be prescribed.”.

17. Amendment of section 168.—In section 168 of the principal Act,—

(i) to sub-section (3), the following proviso shall be added, namely:

“Provided that the Central Government may, if it is of opinion that it is necessary or expedient so to do in the exigencies of service, relax, for reasons to be recorded in writing, the qualification specified in clause (b) or clause (c) in respect of any person.”;

(ii) to sub-section (4), the following proviso shall be added, namely:

“Provided that the Central Government may, if it is of opinion that it is necessary or expedient so to do in the exigencies of service, relax, for reasons to be recorded in writing, the qualification specified in clause (b) or clause (c) in respect of any person.”.

18. Amendment of section 184.—In sub-section (2) of section 184 of the principal Act, for clause (c), the following clauses shall be substituted, namely:—

“(c) the cases in which, and the conditions subject to which powers of punishment may be exercised under sub-section (2) of section 7;

(ca) the retirement discharge and dismissal of persons in the naval service;

(cb) the authority to which any matter referred to in section 19A may be referred and the manner in which an enquiry may be made by that authority;”.

19. Substitution of new section for section 185.—For section 185 of the principal Act, the following section shall be substituted, namely:—

185. “Regulations to be laid before Parliament.—Every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty

days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation."

Notification

LD/469/75

The following Central Act which was recently passed by the Parliament and assented to by the President of India is hereby published for general information of the public.

M. S. Borkar, Under Secretary (Law).

Panaji, 6th February, 1975

The Salaries and Allowances of Members of Parliament (Amendment) Act, 1974

AN
ACT

further to amend the Salaries and Allowances of Members of Parliament Act, 1954.

Be it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

1. **Short title.**—This Act may be called the Salaries and Allowances of Members of Parliament (Amendment) Act, 1974.

2. **Amendment of section 4**—In section 4 of the Salaries and Allowances of Members of Parliament Act, 1954, in sub-clause (ii) of clause (c) of sub-section (1), for the words "thirty-two paise per kilometer", the words "one rupee per kilometer" shall be substituted.

30 of 1954.

Notification

LD/1862/75

The following notification received from the Government of India, Ministry of Law, Justice and Company Affairs New Delhi, is hereby published for general information of the public.

M. S. Borkar, Under Secretary (Law).

Panaji, 10th June, 1975.

GOVERNMENT OF INDIA MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 14th May 1975

24th Vaisakha, 1897 (Saka)

Notification

S. O. — In exercise of the powers conferred by section 169 of the Representation of the People Act, 1951 (43 of 1951), the Central Government, after consulting the Election Commission, hereby makes the following rules further to amend the Conduct of Elections Rules, 1961, namely:—

1. **Short title and application.**—(1) These rules may be called the Conduct of Elections (Amendment) Rules, 1975.

(2) They shall apply in relation to all elections whether called before or after the date of publication of these rules in the Official Gazette.

2. **Amendment of rule 38.**—In rule 38 of the Conduct of Elections Rules, 1961,—

(a) in sub-rule (2), clause (b) and the proviso at the end shall be omitted;

(b) sub-rule (3) shall be omitted.

[No. F.7(14)/75-Leg. II]

Sd/-

K. K. SUNDARAM
Secretary to the Government of India.

Notification

LD/1548/75

The following Order which was recently issued by the Government of India is hereby published for general information of public.

M. S. Borkar, Under Secretary (Law).

Panaji, 10th June, 1975.

GOVERNMENT OF INDIA MINISTRY OF FINANCE

(Department of Revenue and Insurance)

New Delhi, the 28th February, 1975

9th Phalguna, 1896 (Saka)

Order

Stamps

S.O. 750. In exercise of the power conferred by clause (a) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899) Central Government hereby remits, with effect from 6th July, 1974, the duty with which receipts mentioned below are chargeable under the said Act:—

(i) Receipts given by an employee or his nominee or heir in respect of repayment of depo-

sits made by deductions from his emoluments under the Additional Emoluments (Compulsory Deposit) Act, 1974 or of the payment of interest thereon.

(ii) Receipts given by the specified authority (as defined in the respective schemes) to the Reserve Bank of India or the State Bank of India or the nominated authority (as defined in the respective schemes) in respect of repayment of deposits made under the Additional Emoluments (Compulsory Deposit) Act, 1974 or of the payment of interest thereon.

(iii) Receipts given by the nominated authority (as defined in the respective schemes) to the specified authority (as defined in the respective schemes) or the Reserve Bank of India or the State Bank of India in respect of payment or repayment of deposits made under the Additional Emoluments (Compulsory Deposit) Act, 1974 or of the payment of interest thereon.

(iv) Receipts given by the Reserve Bank of India or the State Bank of India to the specified authority (as defined in the respective schemes) or the nominated authority (as defined in the

respective schemes) in respect of payment or repayment of deposits made under the Additional Emoluments (Compulsory Deposit) Act, 1974 or of the payment of interest thereof.

Explanations: — Any reference to a scheme in (ii), (iii) and (iv) of this notification shall be deemed to be a reference to the Additional Emoluments Compulsory Deposit (Government Employees) Scheme, 1974, the Additional Emoluments Compulsory Deposit (Local Authority Employees) Scheme, 1974 or the Additional Emoluments Compulsory Deposit (Employees other than employees of Government and Local Authorities) Scheme, 1974, as the case may be framed by the Central Government in exercise of the powers conferred on it by sub-section (1) of section 10 of the Additional Emoluments (Compulsory Deposit) Act, 1974 (37 of 1974).

Sd/-

J. RAMAKRISHNA

Under Secretary to the Government of India.

No. 7/75-Stamps-F.No.471/70/74-Cus. VII